

Interview Summary

Application No.

09/852,497

Applicant(s)

L. VIGIL ET AL.

Examiner

John L Young

Art Unit

3622

All participants (applicant, applicant's representative, PTO personnel):

(1) John L Young.(3) Todd Vigil (inventor).(2) Todd Melgar (representing Todd Vigil).

(4) _____.

Date of Interview: 26 May 2004.

Type: a) ☒ Telephonic b) ☐ Video Conference
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.
If Yes, brief description: _____.

Claim(s) discussed: 1.

Identification of prior art discussed: De Rafeal.

Agreement with respect to the claims f) ☐ was reached. g) ☒ was not reached. h) ☐ N/A.

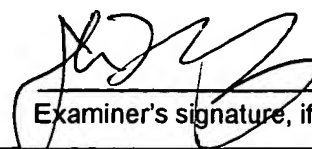
Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See Continuation Sheet.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

JOHN LEONARD YOUNG, ESQ.
PRIMARY EXAMINER

5-26-2004



Examiner's signature, if required

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Examiner raised the issue of pending 35 USC 101 ("not within the technological arts") rejections of claims 1-10, 18-20, 41-48 & 60. Mr. Melgar indicated that the 101 issues concerning claims 1-10, 18-20, 1-48 & 60 were addressed in the prior phone interview with the Examiner on March 11, 2004 and that it was agreed that the addition of the phrase "a microprocessor based" inserted in claim 1, line 1, after the word "using" and before the phrase "interactive media system" (and deleting the word "an", as well as inserting the phrase "microprocessor based" somewhere in the body of claim 1, would obviate the 101 rejection of claim 1. It was agreed that similar amendments to independent claims 2-3, 41 & 60 will obviate the 101 rejection issues of claims 2-10, 18-20, 41-48 & 60 as well. The parties then discussed the merits of claim 1 and the obviousness rejection of same. The Examiner indicated that claim 1 as drafted suffers from undue breadth. Note: Independent claim 1 contains a preamble and four designated elements a, b, c, & d. The Examiner recited the wording in the preamble of claim 1 and indicated that there was no novelty there; the Examiner recited the wording in elements a, c & d and indicated that there was no novelty in any of elements a, c & d, as well as the preamble of claim 1, initially there was no objection by either Applicant or Applicant's representative; however subsequently, Applicant's representative indicated that all of the elements combined formed a novel invention. The Examiner disagreed. The Examiner then recited the wording of element b: "transmitting to the viewer an offer to submit an entry to win a prize in response to the advertisement wherein the viewer is offered a fleeting opportunity to submit the entry only after the advertisement has first been displayed to the viewer for a period of time without the opportunity to submit an entry. . . ." The Examiner indicated that it was the Examiner's opinion that there is no novelty in element b as recited in claim 1. Applicant and Applicant's representative strongly disagreed and pointed to the "fleeting opportunity to submit the entry" limitation as representing the driving concept of the proposition that element b of claim 1 contains the novel ingredient of the invention as claimed. The Examiner disagreed, and the discussion shifted to the Examiner's interpretation of the De Rafeal reference US 6,529,878 cited at col. 7, ll. 51-54: "This information can be as straightforward as the average (mean) number of users 12 who viewed a certain advertisement 24 within a certain time period. . . ." The Examiner's interpretation of the cited reference is that of an opportunity for X number of viewers or a viewer of an advertisement to view said advertisement in a time period, i.e., a fleeting opportunity to view and submit based on the combination of the references relied upon as a whole in the 35 USC 103 rejection of claim 1. The Examiner explained that examiners must interpret the claims in light of the specification but must not read elements and limitations from the specification into the claims and that examiners may interpret the claims broadly and interpret disclosures of applied references for all that they may suggest without using impermissible hindsight. The Examiner indicated all this in the effort to explain the Examiner's interpretation of the claim element at issue. The Examiner indicated that specific narrow timing elements defining the "fleeting opportunity" if added to claim 1 might prove difficult to reject based on the prior art of record and any update searches conducted in the future. Applicant and Applicant's representative voiced their strong concern that the Examiner has misinterpreted the claim language of the instant invention and that the Examiner neither understands the invention nor the references applied in the obviousness rejection of the invention. The Examiner supplied the phone number and name of the Examiner's supervisor (Eric Stamber 703-305-8469) .